IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

Bail Appl..No. 7168 of 2007()

CRIME NO.297/07 OF FEROKE POLICE STATION, KOZHIKODE.

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PETITIONER/1ST ACCUSED:

P.K. SASI, S/O. LATE ALAGIRI,
PADINHARE KOTTAKULAM HOUSE, VALLIKUNNU AMSOM,DESOM
TIRURANGADI TALUK, MALAPPURAM DISTRICT.

BY ADV. SMT.T.V.NEEMA

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM (REPRESENTING THE
STATION HOUSE OFFICER, FEROKE POLICE STATION,
KOZHIKODE DISTRICT.

BY P.P. SRI.S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7168 OF 2007

Dated this the 22nd day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the husband of the de facto complainant. A crime has been registered for offences punishable, inter alia, under Sec.498A of the IPC. Matrimonial cruelty of the culpable variety is alleged primarily against the petitioner. The marriage between the spouses took place on 18/1/04. No children have been born in the wed-lock. Matrimonial disputes prevail between the parties. The crime was registered on the basis of a private complaint filed by the de facto complainant before the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) of the Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the

petitioner is absolutely innocent. Because of the strain in the matrimonial relationship, exaggerated and fanciful allegations are being raised against the petitioner. The petitioner does not deserve to endure the trauma of arrest and detention, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the application for anticipatory bail. In the facts and circumstances of this case, I reckon that as an informed and reasonable stand. The arrest and incarceration of the petitioner is likely to mar the matrimonial tie beyond repair, I do note. I further take note of the submission of the learned Public Prosecutor that even though allegations of physical cruelty are raised by the de facto complainant, there is no external injury allegedly suffered by the victim. Appropriate conditions can, of course, be imposed in the interests of a fair, efficient and expeditious investigation.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 29/11/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 30/11/07 and 1/12/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 29/11/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 29/11/07.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. to Judge